

NORTH DAKOTA PETROLEUM TANK RELEASE COMPENSATION FUND

GUIDELINES FOR PETROLEUM TANK OWNERS

Revised 04-06-06

PETROLEUM STORAGE TANK CLEANUP COSTS

When a petroleum release occurs, you must **immediately** **contact** the **North Dakota State Health Department (Health Department)**, Underground Storage Tank (UST) Program at (701) 328-5166 or the Division of Municipal Facilities For Aboveground Tank Releases at (701) 328-5210, **and the State Petroleum Tank Release Compensation Fund (Fund)** at (701) 328-9600. The contact person is Jeff Bitz, Administrator. Jeff's email address is jbitz@nd.gov.

The Fund and the Health Department must be notified thirty (30) days before beginning removal, change in service or permanent closure of an underground storage tank. This allows the Health Department and the Fund to coordinate their schedule to be at your site for the tank removal. North Dakota's UST Program is required to go to all sites during a tank removal to determine if there is contamination.

The Fund only reimburses for “reasonable and necessary” cleanup expenses. In order to determine what expenses are “reasonable and necessary”, the tank owner or operator is required to obtain three bids for the removal of an UST. The bids need to be broken out into unit costs for each piece of equipment or laborer. This can be done by the tank owner or operator requesting bids according to the Fund's Excavation Expense Worksheet (SFN 17331 (01-2006)). Any additional work will be reimbursed according to unit costs on the original bid.

HIRING AN EXCAVATION CONTRACTOR:

Prior to hiring an excavation contractor for removal or upgrading work:

1. Check with the Fund to make sure you are eligible to receive reimbursement.
2. Hire a reputable contractor. Ask other owners or operators about contractors they have hired.
3. Obtain written bids from three different contractors. Make sure the contractor bids on specific “unit costs” (backhoe, loader, trucking, etc.). Use the Excavation Expense Worksheet SFN#17331 (01-2006). Make sure they list:
 - a. Unit costs by the hour or cubic yard as requested on worksheet;
 - b. The tasks they will perform;
 - c. The cost of each piece of equipment (by the cubic yard);
 - d. The number of employees they will have on the site (normally 1 foreman and 1 laborer is all that is necessary);
 - e. The labor rate they charge;
 - f. The trucking charges for hauling the contaminated soil (by the cubic yard);

- g. Any other information you feel is essential for this work being performed; and
- h. Mobilization expense.

All claims for payment are subject to the availability of funds in the Fund and must be submitted no later than one year after each specific unit of work has been completed to be eligible.

The following expenses are not eligible for reimbursement by the Fund:

- a. The cost of replacement, repair, and maintenance of affected tanks and associated piping.
- b. Pumping out of any product, including water, from any tanks, which need to be removed.
- c. The cost of upgrading existing affected tanks and associated piping.
- d. The loss of income, profits, or petroleum products.
- e. Decreased property value.
- f. Bodily injuries or property damages except for injuries or damages suffered by third parties.
- g. Attorney's fees.
- h. Costs associated with preparing, filing, and prosecuting an application for reimbursement.
- i. The costs of making improvements to the facility beyond those that are required for corrective action.
- j. Any cleanup costs resulting from negligence or misconduct on the part of the owner or operator.
- k. Costs in excess of those considered reasonable by the Fund.
- l. Fines, penalties imposed by order of federal, state, or local government.
- m. Finance charges, interest charges, or late payment charges.

OVERSEEING THE EXCAVATION CONTRACTOR:

- 1. Take charge of the operation. You need to manage the contractor and don't let the contractor manage you. The Fund will assist you as much as possible.
 - Be aware of the tasks the contractor is doing. Question them on the need to perform certain tasks you feel they might be overdoing.
- 2. Make sure the contractor keeps a daily log of activities. This protects you from being overcharged. It will also provide information for the Fund should questions arise regarding "reasonable and necessary" costs.
- 3. Make sure you understand the excavation contractor's bill. You need to know what the specific expense charges are and how they are determined. This is essential in order to keep the costs of the cleanup under control. You need to make sure the bills you

receive match the bid or contract they submitted. It is the tank owner's responsibility to verify the charges are legitimate and correct.

4. **You must visit with the Health Department regarding onsite treatment of soil or landfarming in comparison to hauling the contaminated soil to a landfill. If you do not, the Fund will only be responsible for reimbursement of what it would have cost to landfarm the contaminated soil.** They need to approve the disposal or treatment method of the contaminated soil. The Fund will assist you in every way possible regarding onsite treatment or landfarming of the contaminated soil rather than hauling it to a landfill. If handled properly, this can be a very large cost saving to you and the Fund.

ENVIRONMENTAL CONSULTANTS:

1. If you have a petroleum release that causes contamination, the Health Department may require you to have a **site assessment** performed. This will need to be done by a qualified environmental consultant firm. The Fund only reimburses for consultant expenses when the Health Department requires it.
2. Obtain **three separate bids**. The Fund has specific worksheets (SFN 18731 (01-2002)) for bidding out by unit cost. We recommend you use our worksheet when requesting bids. This helps you understand the bid (shows specific hourly costs) and keeps all consultant firms bidding the same procedure.
3. For bidding purposes a minimum "site assessment" should include:
 - a. A workplan explaining the procedures, type and amount of work to be done. This needs to be pre-approved by the Health Department.
 - b. Soil Borings – three soil borings at a site is generally sufficient. If the consultant believes more soil borings are necessary, approval should be obtained from the Health Department while the contractor is onsite with his drilling rig.
 - c. If petroleum contamination is encountered to the ground water table at any of these borings, they may need to be converted to ground water monitoring wells. If the consultant feels more than three wells are needed to delineate the ground water flow and contamination extent, they will need to get prior approval from the Health Department for additional work.
 - d. One soil sample from each boring and one water sample from each monitoring well is usually sufficient to determine the extent and degree of contamination.
 - e. The consultant firm must complete a report and submit it to the tank owner. This report needs to be forwarded to the Health Department for their review.
 - f. Once the report is submitted, your initial site assessment is finished.
If more work needs to be done, the Health Department will notify you.

When all the work is completed, please submit the necessary receipts and the completed Excavation and Consultant Worksheets to the Fund. The Fund reviews your expenses and will reimburse you for your eligible "reasonable and necessary" cleanup expenses.

The Fund needs a copy of your cancelled check showing proof of payment of your \$5,000 deductible and your 10% co-payment amount.